

AP\$ TW



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

Bruce E. Kramer et al.

U.S. Application No.: 10/787,142

Confirmation No.: 4632

Group Art Unit: 1751

Filed: February 27, 2004

Examiner: Necholus Ogden

For: Multicolored Cleansing Bar and Method for the Use Thereof

SUBMISSION OF APPEAL BRIEF

Mail Stop Appeal Brief - Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

Appellants submit herewith their appeal brief. A check for the fee of \$250.00

(small entity) is attached.

Respectfully submitted,

A handwritten signature in black ink that reads "Bruce E. Kramer".

Bruce E. Kramer
Registration No. 33,725

9112 Cherbourg Drive
Potomac, MD 20854
(301) 299-8843
Date: March 28, 2007

03/29/2007 MAHMEI-00000152-10787142

01-PC-2402

250.00-00

PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Bruce E. Kramer et al.

U.S. Application No.: 10/787,142

Confirmation No.: 4632

Group Art Unit: 1751

Filed: February 27, 2004

Examiner: Necholus Ogden

For: Multicolored Cleansing Bar and Method for the Use Thereof

APPEAL BRIEF

Mail Stop Appeal Brief - Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

Further to the Notice of Panel Decision from Pre-Appeal Brief Review mailed January 29, 2007, Applicants submit this appeal brief for the Board's consideration. A Petition for Extension of Time for one month is submitted herewith, based on the mailing date of the Notice of Panel Decision.

03/29/2007 MAHME1 00000152 10787142

01 FC:2402

250.00 0P

REAL PARTY IN INTEREST

The real parties in interest are the inventors, Bruce E. Kramer and Joy E. Belin.

RELATED APPEALS AND INTERFERENCES

Applicants do not know of any prior or pending appeals, interferences or judicial proceedings which may be related to, directly affect, or be directly affected by or have a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 24, 26, 28-51 and 53-58 are rejected. Claims 24, 26, 28-51 and 53-58 are being appealed.

STATUS OF AMENDMENTS

No amendments were filed after the final Office Action of July 31, 2006.

SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 24 is directed to a method for improving a child's hygiene, comprising [1] motivating a child to wash or bathe by providing the child with a multicolored cleansing bar 10 comprising a cleansing material and having a plurality of colors designed to motivate the child to wash or bathe with the cleansing bar 10 in order to see the appearance of the cleansing bar 10 change, and [2] having the child wash or bathe with the cleansing bar 10, wherein the child is motivated to wash or bathe with the cleansing bar 10 in order to see the appearance of the cleansing bar 10 change,

wherein the cleansing bar 10 comprises an outside layer 11 and at least one inside layer 12(-16), wherein the outside layer 11 is a different color from at least one inside layer 12(-16),

wherein the child sees the appearance of the cleansing bar 10 change by washing or bathing with the cleansing bar 10 so that the outside layer 11 disappears due to the washing or bathing. See, e.g., page 11, line 21 to page 12, line 4, page 12, lines 8-11, page 6, lines 16-22, and Figs. 1 and 2 in the present application.

Independent claim 28 is directed to a method for improving a child's hygiene, comprising [1] motivating a child to wash or bathe by providing the child with a multicolored cleansing bar 20 comprising a cleansing material and having a plurality of colors designed to motivate the child to wash or bathe with the cleansing bar 20 in order to see the appearance of the cleansing bar 20 change, and [2] having the child wash or bathe with the cleansing bar 20, wherein the child is motivated to wash or bathe with the cleansing bar 20 in order to see the appearance of the cleansing bar 20 change,

wherein the cleansing bar 20 comprises a top layer 21 and at least one other layer 22(-26), wherein the top layer 21 is a different color from at least one other layer 22(-26),

wherein the child sees the appearance of the cleansing bar 20 change by washing or bathing with the cleansing bar 20 so that the top layer 21 disappears due to the washing or bathing. See, e.g., page 11, line 21 to page 12, line 4, page 12, lines 12-16, page 7, lines 9-13, and Fig. 3 in the present application.

Independent claim 50 is directed to a method for improving a child's hygiene, comprising [1] motivating a child to wash or bathe by providing the child with a multicolored cleansing bar 30 comprising a cleansing material and having a plurality of colors designed to motivate the child to wash or bathe with the cleansing bar 30 in order to see the appearance of the cleansing bar change 30, and [2] having the child wash or bathe with the cleansing bar 30, wherein the child is motivated to wash or bathe with the cleansing bar 30 in order to see the appearance of the cleansing bar 30 change,

wherein the cleansing bar 30 has a top, bottom, two sides, front and back, and comprises a first layer 31 which is at all of the top, bottom, and both sides of the bar but not at all of the front and back of the bar, and at least one other layer 32(-36), wherein the first layer 31 is a different color from at least one other layer 32(-36),

wherein the child sees the appearance of the cleansing bar 30 change by washing or bathing with the cleansing bar 30 so that the first layer 31 disappears due to the washing or bathing. See, e.g., page 11, line 21 to page 12, line 4, page 8, lines 15-21, and Fig. 4 in the present application.

Independent claim 58 is directed to a method for improving a child's hygiene, comprising [1] motivating a child to wash or bathe by providing the child with a multicolored cleansing bar comprising a cleansing material and having a plurality of colors designed to motivate the child to wash or bathe with the cleansing bar in order to see the appearance of the cleansing bar change, and [2] having the child wash or bathe with the cleansing bar, wherein the child is motivated to wash or bathe with the cleansing bar in order to see the appearance of the cleansing bar change,

wherein the cleansing bar comprises at least a red layer, an orange layer, a yellow layer, a green layer, a blue layer, and a purple layer, and

wherein the cleansing bar contains a prize identifier having the appearance of a pot of gold. See, e.g., page 11, line 21 to page 12, line 7, and page 12, lines 21-23 in the present application.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 24, 26, 28-51 and 53-58 are rejected under 35 U.S.C. 103 as being unpatentable over Sonnenberg et al, U.S. Patent 6,673,756.

ARGUMENT

Rejection under 35 U.S.C. 103 over U.S. Patent 6,673,756

On page 2 of the Office Action of July 31, 2006, claims 24, 26, 28-51 and 53-58 are rejected under 35 U.S.C. 103 as being unpatentable over Sonnenberg et al, U.S. Patent 6,673,756.

Applicants respectfully submit that Sonnenberg neither teaches nor suggests the present invention, and request that the rejection be withdrawn in view of the following remarks.

Initially, Applicants submit that Sonnenberg specifically discloses soaps in which the individual phases are highly visible when viewed from above and from the side (see, e.g., the Abstract). This is a characteristic feature of Sonnenberg (see, e.g., col. 2, lines 35-41). The use of Sonnenberg's soaps permits various scent experiences to be achieved during the washing operation (see, e.g., the Abstract).

Claims 24, 26, and 29-42

Applicants submit that Sonnenberg's soaps as set forth above neither teach nor suggest the invention of independent claim 24 (and dependent claims 26 and 29-42), directed to a method in which the cleansing bar that is used comprises an outside layer and an inside layer, wherein outside layer is a different color than the inside layer. The inside layer is not visible from the outside (i.e., it is not visible when viewed from above or from the side), and thus a child is motivated to wash away the outside layer to see what color the inside layer is. Sonnenberg neither teaches nor suggests such a concept, and

thus Applicants submit that Sonnenberg neither teaches nor suggests the invention of claim 24 or the claims dependent thereon.

That is, Applicants submit that the cited reference does not teach or suggest a cleansing bar with an outside layer as that term is used in the present application, and thus the cited art neither teaches nor suggests a step of washing or bathing with the cleansing bar so that the **outside** layer disappears as in the case of independent claim 24 and the claims dependent thereon.

Claims 28 and 43-49

Applicants submit that Sonnenberg's soaps as set forth above neither teach nor suggest the invention of independent claim 28 (and dependent claims 43-49), directed to a method in which the cleansing bar that is used comprises a top layer and at least one other layer, wherein the top layer is a different color than the at least one other layer. The at least one other layer is not visible when viewed from above, and thus a child is motivated to wash away the top layer to change the appearance of the bar. Sonnenberg neither teaches nor suggests such a concept, and thus Applicants submit that Sonnenberg neither teaches nor suggests the invention of claim 28 or the claims dependent thereon.

That is, Applicants submit that the cited reference does not teach or suggest a cleansing bar with a top layer as that term is used in the present application, and thus the cited art neither teaches nor suggests a step of washing or bathing so that the **top** layer disappears as in the case of independent claim 28 and the claims dependent thereon.

Claims 50, 51, and 53-57

Applicants submit that Sonnenberg's soaps as set forth above neither teach nor suggest the invention of independent claim 50 (and dependent claims 51 and 53-57), directed to a method in which the cleansing bar that is used comprises a first layer and at least one other layer, wherein the first layer is a different color than the at least one other layer. The at least one other layer is not visible when viewed from above, and thus a child is motivated to wash away the first layer to change the appearance of the bar. Sonnenberg neither teaches nor suggests such a concept, and thus Applicants submit that Sonnenberg neither teaches nor suggests the invention of claim 50 or the claims dependent thereon.

That is, Applicants submit that the cited reference does not teach or suggest a cleansing bar with a first layer as that term is used in the present application, and thus the cited art neither teaches nor suggests a step of washing or bathing so that the **first** layer disappears as in the case of independent claim 50 and the claims dependent thereon.

Claim 58

Applicants submit that the cited art neither teaches nor suggests a method for improving a child's hygiene comprising motivating a child to wash or bathe by providing the child with the particular cleansing bar recited in independent claim 58 (i.e., a bar having rainbow colors and containing a prize identifier having the appearance of a pot of gold) and having the child wash or bathe with that bar. Applicants submit that the cleansing bar recited in claim 58, including its particular prize identifier inside, would

motivate a child to wash longer and more often than would the cleansing bar disclosed or suggested by the cited art, and thus would improve a child's hygiene.

Claims 24, 26, 28-51 and 53-58

Applicants submit that the Examiner's citation of the Seid case, which is directed to a product, does not apply to the present claims, which are directed to a method. In this regard, Applicants submit that the colors and layers in the present invention are not merely ornamentation or aesthetic design changes, but rather are functional in that they are specifically designed to motivate a child to wash or bathe.

Also, Applicants submit that the prior art does not suggest the combination of elements recited in the present method claims, and thus the Lintner and Dillon case law cited by the Examiner does not apply (in the Lintner and Dillon cases, the combination of elements themselves in the claimed invention in the each case was obvious even though the reason for combining them was different than in the prior art).

In particular, a key element of the present method claims is the element of motivating a child to wash or bathe, wherein the child is motivated to wash or bathe with a multicolored cleansing bar in order to see the appearance of the cleansing bar change in a particular way (e.g., the outside layer disappearing in claim 24, the top layer disappearing in claim 28, or the first layer disappearing in claim 50). Seeing the cleansing bar change appearance is what motivates the child to wash or bathe and thus is an important feature of this element of the present invention.

While the Examiner contends that the bar of the cited art would inherently motivate a child to wash, Applicants disagree but in any event submit that the cited art would not inherently motivate a child to wash in order to see the appearance of the cleansing bar change in the particular way recited in the present claims (e.g., the outside layer disappearing in claim 24, the top layer disappearing in claim 28, the first layer disappearing in claim 50, or the pattern including rainbow colors changing in claim 58).

Thus, Applicants submit that the prior art does not teach or suggest all the elements of the present method claims.

As to the Examiner's contention that one would be motivated to assemble the layers and colors as claimed absent a showing to the contrary, Applicants submit that there is no reason why one skilled in the art would be motivated to assemble the layers and colors as claimed. Applicants submit that the cleansing bar recited in the present method claims is specifically designed to motivate a child to wash or bathe in order to see the appearance of the cleansing bar change in a certain way (e.g., the outside layer disappearing in amended claim 24, the top layer disappearing in amended claim 28, the first layer disappearing in amended claim 50, or the pattern including rainbow colors changing in claim 58).

In contrast, Applicants submit that the prior art neither teaches nor suggests a motivation due to seeing the appearance of the cleansing bar change. Indeed, Sonnenberg is directed to achieving *various scent experiences* (see, e.g., the Abstract),

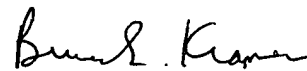
which neither teaches nor suggests an appearance change motivation as in the present invention.

Thus, Applicants submit that the present invention is not obvious over the cited art, and withdrawal of this rejection is respectfully requested.

Conclusion

In view of the above remarks, Applicants submit that the present invention is neither anticipated by nor obvious over the cited art, and reversal of these rejections is respectfully requested.

Respectfully submitted,



Bruce E. Kramer
Registration No. 33,725

9112 Cherbourg Drive
Potomac, MD 20854
(301) 299-8843

Date: March 28, 2007

CLAIMS APPENDIX

The claims involved in the appeal are as follows:

24. A method for improving a child's hygiene, comprising (1) motivating a child to wash or bathe by providing the child with a multicolored cleansing bar comprising a cleansing material and having a plurality of colors designed to motivate the child to wash or bathe with the cleansing bar in order to see the appearance of the cleansing bar change, and (2) having the child wash or bathe with the cleansing bar, wherein the child is motivated to wash or bathe with the cleansing bar in order to see the appearance of the cleansing bar change,

wherein the cleansing bar comprises an outside layer and at least one inside layer, wherein the outside layer is a different color from at least one inside layer,

wherein the child sees the appearance of the cleansing bar change by washing or bathing with the cleansing bar so that the outside layer disappears due to the washing or bathing.

26. A method as in claim 24, wherein the cleansing bar comprises at least a red layer, an orange layer, a yellow layer, a green layer, a blue layer, and a purple layer.

28. A method for improving a child's hygiene, comprising (1) motivating a child to wash or bathe by providing the child with a multicolored cleansing bar comprising a cleansing material and having a plurality of colors designed to motivate the child to wash or bathe with the cleansing bar in order to see the appearance of the cleansing bar change, and (2) having the child wash or bathe with the cleansing bar, wherein the child is

motivated to wash or bathe with the cleansing bar in order to see the appearance of the cleansing bar change,

wherein the cleansing bar comprises a top layer and at least one other layer, wherein the top layer is a different color from at least one other layer,

wherein the child sees the appearance of the cleansing bar change by washing or bathing with the cleansing bar so that the top layer disappears due to the washing or bathing.

29. A method as in claim 24, wherein the layers are opaque.

30. A method as in claim 26, wherein the cleansing bar further comprises an antibacterial compound.

31. A method as in claim 26, wherein the cleansing bar contains an object therein.

32. A method as in claim 31, wherein the object is a toy.

33. A method as in claim 31, wherein the object is a prize identifier having the appearance of a pot of gold.

34. A method as in claim 24, wherein the cleansing bar further comprises an antibacterial compound.

35. A method as in claim 24, wherein the cleansing bar contains an object therein.

36. A method as in claim 35, wherein the object is a toy.

37. A method as in claim 35, wherein the object is a prize identifier having the appearance of a pot of gold.

38. The method as in claim 26, wherein the cleansing bar comprises an outside layer, a second layer which is adjacent to the outside layer, a third layer which is adjacent to the second layer, a fourth layer which is adjacent to the third layer, a fifth layer which is adjacent to the fourth layer, and a sixth layer which is adjacent to the fifth layer.

39. The method as in claim 38, wherein the outside layer is red.

40. The method as in claim 38, wherein the outside layer is purple.

41. The method as in claim 39, wherein the second layer is orange, the third layer is yellow, the fourth layer is green, the fifth layer is blue, and the sixth layer is purple.

42. The method as in claim 40, wherein the second layer is blue, the third layer is green, the fourth layer is yellow, the fifth layer is orange, and the sixth layer is red.

43. The method as in claim 28, wherein the cleansing bar comprises a top layer, a second layer which is adjacent to the top layer, a third layer which is adjacent to the second layer, a fourth layer which is adjacent to the third layer, a fifth layer which is adjacent to the fourth layer, and a sixth layer which is adjacent to the fifth layer.

44. The method as in claim 43, wherein the top layer is red.

45. The method as in claim 43, wherein the top layer is purple.

46. The method as in claim 44, wherein the second layer is orange, the third layer is yellow, the fourth layer is green, the fifth layer is blue, and the sixth layer is purple.

47. The method as in claim 45, wherein the second layer is blue, the third layer is green, the fourth layer is yellow, the fifth layer is orange, and the sixth layer is red.

48. The method as in claim 46, wherein the cleansing bar further comprises a seventh layer which is adjacent to the sixth layer and is blue, an eighth layer which is

adjacent to the seventh layer and is green, a ninth layer which is adjacent to the eighth layer and is yellow, a tenth layer which is adjacent to the ninth layer and is orange, and an eleventh layer which is adjacent to the tenth layer and is red.

49. The method as in claim 47, wherein the cleansing bar further comprises a seventh layer which is adjacent to the sixth layer and is orange, an eighth layer which is adjacent to the seventh layer and is yellow, a ninth layer which is adjacent to the eighth layer and is green, a tenth layer which is adjacent to the ninth layer and is blue, and an eleventh layer which is adjacent to the tenth layer and is purple.

50. A method for improving a child's hygiene, comprising (1) motivating a child to wash or bathe by providing the child with a multicolored cleansing bar comprising a cleansing material and having a plurality of colors designed to motivate the child to wash or bathe with the cleansing bar in order to see the appearance of the cleansing bar change, and (2) having the child wash or bathe with the cleansing bar, wherein the child is motivated to wash or bathe with the cleansing bar in order to see the appearance of the cleansing bar change,

wherein the cleansing bar has a top, bottom, two sides, front and back, and comprises a first layer which is at all of the top, bottom, and both sides of the bar but not at all of the front and back of the bar, and at least one other layer, wherein the first layer is a different color from at least one other layer,

wherein the child sees the appearance of the cleansing bar change by washing or bathing with the cleansing bar so that the first layer disappears due to the washing or bathing.

51. The method as in claim 50, wherein the cleansing bar comprises a first layer, a second layer which is adjacent to the first layer, a third layer which is adjacent to the second layer, a fourth layer which is adjacent to the third layer, a fifth layer which is adjacent to the fourth layer, and a sixth layer which is adjacent to the fifth layer.

53. The method as in claim 51, wherein the first layer is red, the second layer is orange, the third layer is yellow, the fourth layer is green, the fifth layer is blue, and the sixth layer is purple..

54. The method as in claim 51, wherein the first layer is purple, the second layer is blue, the third layer is green, the fourth layer is yellow, the fifth layer is orange, and the sixth layer is red.

55. The method as in claim 50, wherein the cleansing bar contains a toy.

56. The method as in claim 53, wherein the cleansing bar contains a prize identifier having the appearance of a pot of gold.

57. The method as in claim 54, wherein the cleansing bar contains a prize identifier having the appearance of a pot of gold.

58. A method for improving a child's hygiene, comprising (1) motivating a child to wash or bathe by providing the child with a multicolored cleansing bar comprising a cleansing material and having a plurality of colors designed to motivate the child to wash or bathe with the cleansing bar in order to see the appearance of the cleansing bar change, and (2) having the child wash or bathe with the cleansing bar, wherein the child is motivated to wash or bathe with the cleansing bar in order to see the appearance of the cleansing bar change,

wherein the cleansing bar comprises at least a red layer, an orange layer, a yellow layer, a green layer, a blue layer, and a purple layer, and

wherein the cleansing bar contains a prize identifier having the appearance of a pot of gold.

APPEAL BRIEF
USAN 10/787,142

EVIDENCE APPENDIX

None.

APPEAL BRIEF
USAN 10/787,142

RELATED PROCEEDINGS APPENDIX

None.